



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

52

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/965,526	09/26/2001	Steve Goddard	UNL3058.2	7439

7590 04/06/2005

MICHAEL J. THOMAS  
HARNESS, DICKEY & PIERCE  
7700 BONHOMME AVENUE  
SUITE 400  
ST. LOUIS, MI 63105

EXAMINER
----------

LUU, LE HIEN

ART UNIT	PAPER NUMBER
----------	--------------

2141

DATE MAILED: 04/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/965,526

Applicant(s)

GODDARD, STEVE

Examiner

Le H Luu

Art Unit

2141

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 09/26/2001 - 09/20/2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09/26/2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

1. Claims 1-28 are presented for examination.
2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-28 are rejected under 35 U.S.C. § 103 (a) as being unpatentable over Van Watermulen et al. (Van Watermulen) patent no. 6,604,046, in view of Amicangioli patent no. 6,535,509.

4. As to claim 1, Van Watermulen teaches the invention substantially as claimed (figure 1), including a server for providing data to clients, the server comprising:

an OSI layer 4 dispatcher having a queue for storing connection requests received from clients (col. 4 line 59 - col. 5 line 8); and

at least one back-end server (col. 5 lines 28-41);

wherein the dispatcher stores in the queue one or more of the connection requests received from clients when the back-end server is unavailable to process said one or more connection requests (col. 4 line 59 - col. 5 line 27);

wherein the dispatcher retrieves said one or more connection requests from the queue for forwarding to the back-end server when the back-end server becomes available to process said one or more connection requests (col. 4 line 59 - col. 5 line 42); and

wherein the dispatcher determines whether the back-end server is available to process said one or more connection requests by comparing a number of connections concurrently supported by the back-end server to a maximum number of concurrent connections that the back-end server is permitted to support (col. 4 line 59 - col. 5 line 42).

However, Van Watermulen does not explicitly teach the maximum number of concurrent connections being less than a maximum number of connections which the back-end server is capable of supporting concurrently.

Amicangioli teaches the number of serviceable connections is less than the number of offered connections by a server (col. 14 lines 48-57).

It would have been obvious to one of ordinary skill in the Data Processing art at the time of the invention to combine the teachings of Van Watermulen and Amicangioli to set the maximum number of concurrent connections being less than a maximum number of connections which the back-end server is capable of supporting concurrently because it would provide an optimum connection load for the back-end server.

5. As to claim 2, Amicangioli teaches wherein the dispatcher is configured to monitor a performance of the back-end server, to define the maximum number of concurrent connections that the back-end server is permitted to support, and to dynamically adjust the maximum number in response to the monitored performance (col. 15 lines 15-50).

6. As to claim 3, Van Watermulen teaches the server is a cluster-based server comprising a plurality of back-end servers, wherein the dispatcher is configured to store

Art Unit: 2141

in the queue said one or more connection requests when none of the back-end servers is available to process said one or more connection requests, and wherein the dispatcher is further configured to retrieve said one or more connection requests from the queue for forwarding to one of the back-end servers when said one of the back-end servers becomes available to process said one or more connection requests (figure 1; col. 4 line 59 - col. 5 line 42).

7. As to claims 4-6, Van Watermulen teaches the server is a Web server; the dispatcher and the back-end server are embodied in COTS hardware; the dispatcher comprises a first computer device, wherein the back-end server comprises a second computer device, and wherein the first and second computer devices are configured to communicate with one another over a computer network (figure 1).


8. Claims 7-28 have similar limitations as claims 1-6; therefore, they are rejected under the same rationale.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Le H Luu whose telephone number is 571-272-3884. The examiner can normally be reached on 7:00am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on 571-272-3880. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2141

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Le Hien Luu', written over a horizontal line.

LE HIEN LUU  
PRIMARY EXAMINER

March 17, 2005